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54208  
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AMOUNT

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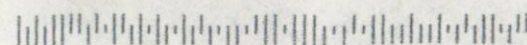
R2305K138537-09

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Received & Inspected

AUG 31 2020

FCC Mailroom





AUG 31 2020

Federal Communications Commission  
Office of the Secretary

ORIGINAL +4

Before the  
**Federal Communications Commission**  
Washington, DC 20554

To: Secretary  
Federal Communications Commission

In the Matter of  
New WRRD, LLC  
Waukesha, Wisconsin  
WRRD-AM 1510 Khz.

File No. BP-202008198AAI

Re: Application for Minor Modification of License

**COMMENTS IN SUPPORT OF LICENSEE'S PROPOSAL  
TO DECREASE POWER DRASTICALLY AND OPERATE  
NON-DIRECTIONAL ON A PERMANENT BASIS**

Comes now, Metro North Communications, Incorporated, by its President, Mark Heller, as licensee of Standard Broadcast Station, WLAK-AM New Holstein, Wisconsin with comments in support of the reduction of AM power for Standard Broadcast Station, WRRD-AM, Waukesha, Wisconsin, as proposed by the owners ("New WRRD, LLC").

That, New WRRD LLC has been the owner of the station at Waukesha, and does not seem to have the ability to find profitability in its more than three years of ownership. The station has been marketed for sale, first by Fybush Media of Rochester, New York area, and most recently by Kozacko Media / George Kimble of Tucson, Arizona, without success. The station's majority owner Michael Crute, has also entertained an effort for a crowd funding effort, which has not met its goals, as well. Today, it appears to be an economic failure.

That, it is a public record that the station is currently in arrears on its property taxes in Waukesha County, Wisconsin over a three year period of more than \$32,166.53 and if a buyer was not procured, then a sale of certain



assets would be undertaken a last resort. The property that shows arrears is identified as 1801 Coral Drive, Waukesha, WI, on the Waukesha County taxpayer website, accessed on August 22, 2020 at 906pm.

**EXHIBIT A, attached.**

WRRD-AM, is in a precarious situation, located in an area surrounded by large apartment complexes, a former Walmart Shopping Center, immediately to the west, and a decommissioned US military missile silo, all within a few thousand feet from the current three tower AM array. As a result, WRRD has suffered for years with a terrible pattern, including multiple augmentations in its pattern.

**EXHIBIT B, attached. (From WRRD Public File)**

Additionally, by operating from a studio and office from the east side of Milwaukee, the owners never focused on the 1,600 members of the Waukesha County Chamber of Commerce, nor the 400 members of the Waukesha City Chamber of Commerce for advertising support. That was clearly their intentions to ignore the nearby potential profits.

Technically speaking, during the winter months especially, WRRD is simply also overrun with the signal from Nashville, Tennessee's WLAC-AM, also on 1510 Khz with 50,000 watts day and night.

Clearly, it would appear that it is the desire of the owners of WRRD to surrender as much electricity costs involved in operations, (estimated at \$1500 per month) and to only concentrate on operating a mere 200 watt FM translator on a Public Television tower, on the east side of the City of Milwaukee, Wisconsin, and run a 250-watt daytime AM station at a cost of approximately \$75 a month for electricity.

That, current FCC rules do allow for such an arrangement, that WRRD will still cover the City of License, but at a greatly reduced power. It can be predicted that during the winter months, in the mid to early afternoon, the WRRD signal will be completely enveloped by the WLAC-AM signal, thus making WRRD-AM's commercial signal absolutely useless for advertiser's use. If it was their original intent to kill off the AM signal, they will have absolutely succeeded with this proposal.



Metro North Communications, Incorporated owns WLAK-AM, New Holstein, Wisconsin, and located due north of the WRRD tower site at a distance of approximately 75 miles, two miles north of Calumet County's seat of government, namely Chilton, Wisconsin. WLAK-AM is a 350-watt daytime station, which has shown an interest in increasing its power to 6,500 watts daytime on 1530 Khz, but has been precluded from doing so, by an application for a recently renewed Construction Permit for 4,000 watts at WCKG-AM, Elmhurst, Illinois, who appears to simply be tolling a Construction Permit, now in its fourth year without any construction undertaken, whatsoever, except for a recent repair of its ground system after being damaged by the Illinois Tollway System. Clearly, WCKG-AM took advantage of the FCC's Rules in being granted a second extension of their original and currently unbuilt Construction Permit. WLAK complains it actually is an injured party, as a result of this tolling by WCKG-AM.

**EXHIBIT C, attached.**

Metro North Communications would be willing, eager and able, to build and operate a 5,000 watt daytime facility at the WLAK tower site on the WRRD frequency, and extinguish the present 1530 Khz 350-watt facility it now operates. WLAK would be 75 miles farther away from WLAC, and would protect the proposed 250-watt WRRD-AM coverage area, by adding a tower and engineering a null towards 180 degrees, in the direction of WRRD. It is our belief from preliminary engineering studies, that WLAK could see at least a 5,000 watt facility designed, perhaps as much as 7,000 watts depending on the final engineering design.

**EXHIBIT D, attached.**

WLAK fully understands that it must also provide protection to 1490 Khz WOSH-AM in Oshkosh, Wisconsin to the 5 mv/m contour, and notes that there is an large expanse of Lake Winnebago (non-populated waterway) between the two sites, where interference would not be an issue, and overlaps may occur with a proper waiver request, over unpopulated water, within the same state's boundaries.

Furthermore, in the desire to construct an improved station originally on 1530 Khz, Metro North Communications has already purchased a phasor, coax and additional ATU unit for an additional tower, all in storage, locally.



All that is needed is a replacement higher powered transmitter and a second tower, which could be procured in quick order.

### **FULL DISCLOSURE.**

That nothing in this filing, was shared with anyone associated with "New WRRD LLC", prior to the filing of this document of support. There is no collusion involved, between the parties. Furthermore, no one from Metro North Communications has ever spoken to anyone at New WRRD LLC, ever, to date.

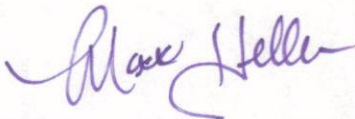
### **CONCLUSION.**

While the downsizing of WRRD would open a great area in empty coverage, as a result in the great reduction in power, Metro North Communications wishes to express its interest and desire to apply for a Construction Permit, and if granted, construct and operate an improved signal for WLAK-AM New Holstein, Wisconsin, negating the effect of loss of underserved population in the WRRD proposal.

For that reason, solely, Metro North Communications, Incorporated respectfully wishes to provide its comments in support of this filing.

Respectfully submitted,

METRO NORTH COMMUNICATIONS, INCORPORATED



Mark Heller, President and Owner

P.O. Box 100  
Denmark, WI 54208-0100  
(920) 863-1234

WGBW-at-LSOL.NET

*August 24, 2020*

**CERTIFICATE OF SERVICE**

On \_\_\_\_\_ day of August, 2020, I mailed, via US Postal Service, first class mail the document entitled: **“COMMENTS IN SUPPORT OF LICENSEE’S PROPOSAL TO DECREASE POWER DRASTICALLY AND OPERATE NON-DIRECTIONAL ON A PERMANENT BASIS”** upon the following:

Marlene H. Dortch, Secretary (Original and four copies)  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Mr. Michael Crute  
New WRRD LLC  
7704 Terrace Avenue #1  
Middleton, WI 53562

Atty. John F. Garziglia  
1200 19<sup>th</sup> Street NW #500  
Washington, DC 20036

\_\_\_\_\_  
Mark Heller



## Tax Bill Details

VIEW THE ORIGINAL 2019 TAX BILL

Tax Key: **WAKC1297026**Tax Year: **2019**8/22/2020 9:06:24 PM  
WAUKESHA COUNTY  
CITY OF WAUKESHA

## OWNER NAME AND MAILING ADDRESS

NEW WRRD LLC  
7704 TERRACE AV SUITE 1  
MIDDLETON, WI 535621801 CORAL DR  
WAUKESHA, WI 53186

## PROPERTY ADDRESS

Contact Us to Update Mailing Address

## LEGAL DESCRIPTION

LOT 1 CSM NO 8327 (V73 CSM P24) PT SW1/4 &amp; SE1/4 SEC 36 T7N R19E 6.27 AC DOC NO4280747

## ASSESSED VALUES

|                   |        |                       |                           |
|-------------------|--------|-----------------------|---------------------------|
| Tax Year:         | 2019   | Exempt:               | NO                        |
| Assessment Type:  | FULL   | Use Value Assessment: | NO                        |
| Assessment Ratio: | 99.48% | Prior Taxes Due To:   | WAUKESHA COUNTY TREASURER |

| Values      | Assessed     | Est. Fair Market |
|-------------|--------------|------------------|
| Land        | \$331,200.00 | \$332,900.00     |
| Improvement | \$96,400.00  | \$96,900.00      |
| Total       | \$427,600.00 | \$429,800.00     |

## LINE ITEMS

| Line Item Description      | Tax Amount | Tax Rate Per \$1000 of Assessed Value |
|----------------------------|------------|---------------------------------------|
| CITY OF WAUKESHA           | \$8,826.50 | N/A                                   |
| GROSS GENERAL TAXES        | \$8,826.50 | N/A                                   |
| SCHOOL TAX CREDIT          | (\$584.47) | N/A                                   |
| FIRST DOLLAR CREDIT - 6174 | (\$58.05)  | N/A                                   |
| NET GENERAL TAXES          | \$8,183.98 | N/A                                   |
| SPECIAL CHARGE(S)          | \$112.22   | N/A                                   |
| TOTAL SPECIAL ASSESSMENTS  | \$112.22   | N/A                                   |

## TOTAL TAX BILL

\$8,296.20

## 2019 TAX BILL PAYMENT OPTIONS

| Installments       | Amount Due | Due By    | Pay to Agency |
|--------------------|------------|-----------|---------------|
| Full Amount Due    | \$8,296.20 | 1/31/2020 | LOCAL         |
| First Installment  | \$2,840.78 | 1/31/2020 | LOCAL         |
| Second Installment | \$2,727.71 | 3/31/2020 | LOCAL         |
| Third Installment  | \$2,727.71 | 5/31/2020 | LOCAL         |

## ALL OUTSTANDING BALANCES DUE THROUGH August

2020

| Year    | Tax Due     | Interest   | Penalty    | Other Charges | Balance Due | Pay to Agency |
|---------|-------------|------------|------------|---------------|-------------|---------------|
| 2017    | \$8,611.59  | \$2,669.59 | \$1,334.80 | \$0.00        | \$12,615.98 | COUNTY        |
| 2018    | \$8,080.35  | \$1,535.27 | \$767.63   | \$0.00        | \$10,383.25 | COUNTY        |
| 2019    | \$8,296.20  | \$580.73   | \$290.37   | \$0.00        | \$9,167.30  | COUNTY        |
| Totals: | \$24,988.14 | \$4,785.59 | \$2,392.80 | \$0.00        | \$32,166.53 |               |

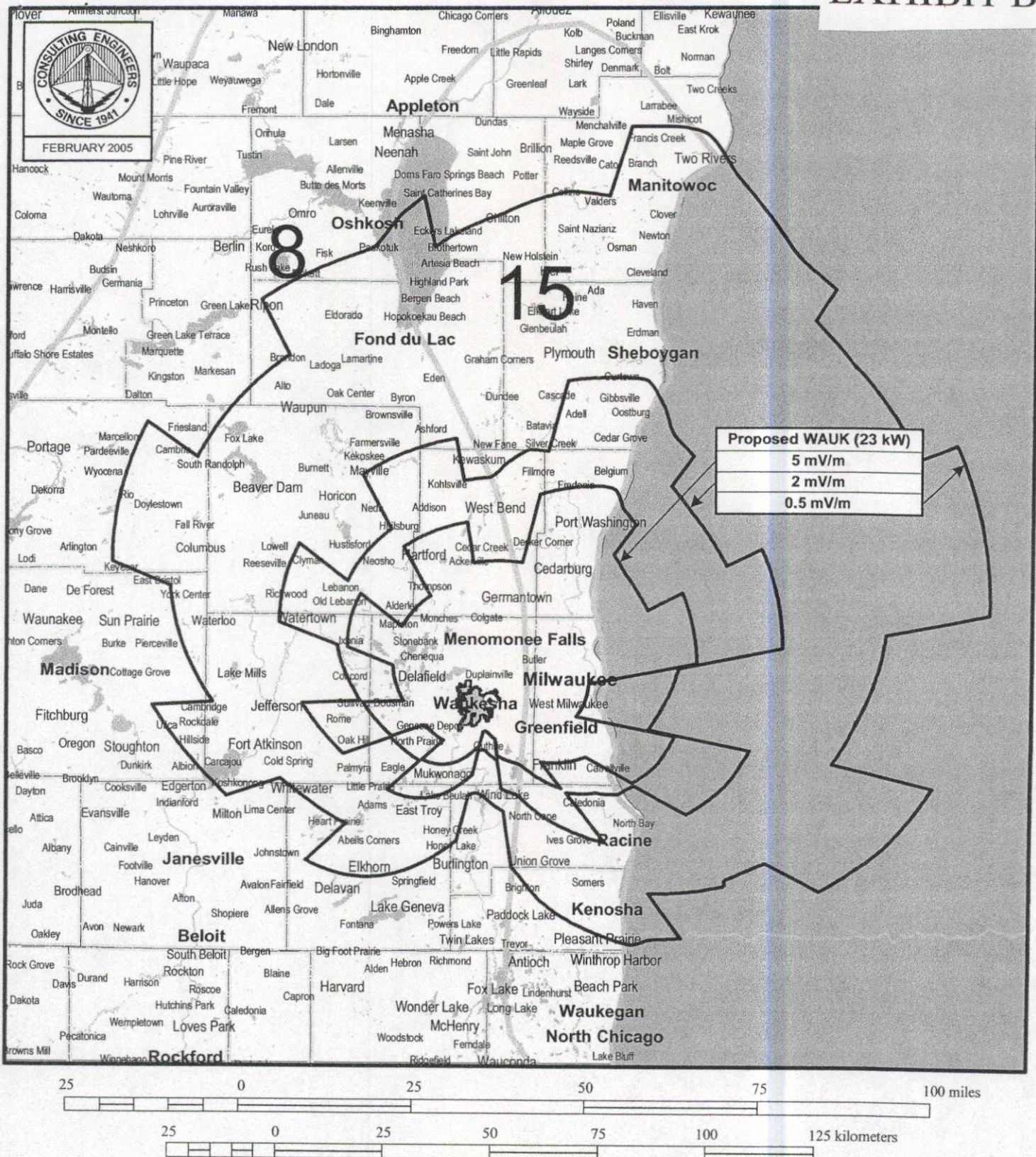
This program accesses data from databases maintained by several County Departments and Local Municipalities. There may be inconsistencies in data depending on the date the information was gathered or the purpose for which it is maintained. Due to variances in sources and update cycles, there is no guarantee as to the accuracy of the data. For questions regarding Outstanding Taxes and Tax Payment records, contact the County Treasurer's office at (262)548-7029.

For Tax Listing and GIS Viewer related issues, please see our FAQs [click here](#). If you still have tax listing questions, contact: [taxlisting@waukeshacounty.gov](mailto:taxlisting@waukeshacounty.gov). If you still have GIS Viewer questions, contact: [landinformation@waukeshacounty.gov](mailto:landinformation@waukeshacounty.gov).

The following browsers are supported:    This page run 8/22/2020 9:06:24 PM.

EXHIBIT A.





## PROPOSED COVERAGE CONTOURS

AM STATION WAUK

WAUKESHA, WISCONSIN

1510 KHZ 23 KW-D, 20 KW-CH DA-D D

du Treil, Lundin & Rackley, Inc Sarasota, Florida





Federal Communications Commission  
Washington, D.C. 20554

EXHIBIT C.

August 5, 2019

*In Reply Refer to:*  
1800B3-IB/DS

Dennis J. Kelly, Esq.  
Counsel to DuPage Radio, LLC  
P.O. Box 41177  
Washington, DC 20018

Mark Heller, President  
Metro North Communications, Inc.  
P.O. Box 100  
Denmark, WI 54208-0100

In re: WCKG(AM), Elmhurst, IL  
Facility ID No. 32227  
File Nos. BP-20190604AAV  
**Minor Modification**  
**Petition to Deny**

Dear Messrs. Kelly and Heller:

This letter concerns the above-referenced application filed on June 4, 2019 (2019 Application) by DuPage Radio, LLC. (DuPage) for a minor modification to the facilities of WCKG(AM), Elmhurst, Illinois (Station). Metro North Communications, Inc. (Metro), licensee of co-channel station WLAK(AM), New Holstein, Wisconsin, objected to the Application (Objection). For the reasons below we grant the 2019 Application and deny Metro's Objection.

**Background.** DuPage filed an application in November 2015 to modify the Station's licensed facilities.<sup>1</sup> Metro opposed the 2015 Application but subsequently withdrew its objection. The Media Bureau (Bureau) issued a construction permit to DuPage on June 3, 2016 (2016 Permit) for a three-year term expiring June 3, 2019. The 2016 Permit expired because DuPage did not construct and file a covering license application by the deadline. On June 4, 2019, the day following the 2016 Permit's expiration, DuPage filed the 2019 Application seeking facilities identical to those previously authorized. Metro objected in a June 24, 2019 filing styled as a Petition to Deny.<sup>2</sup>

Metro argues that the Bureau should deny the 2019 Application because: (1) the Commission's rules (Rules) generally do not provide for extension of broadcast construction permits; (2) DuPage has not shown that it was precluded from building pursuant to the 2016 Permit; (3) further opportunity for DuPage to construct would preclude improvement of radio stations by other licensees, including Metro; and (4) the 2019 Application is based on outdated engineering data submitted with the 2015 Application and ignores subsequent development of the area around the transmitter site. We will consider Metro's

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<sup>1</sup> File No. BP-20151110AMR (rec. Nov. 10, 2015) (2015 Application).

<sup>2</sup> DuPage filed an Opposition on July 5, 2019 and Metro filed a Reply on July 22, 2019.



filing as an informal objection because petitions to deny do not lie against applications for minor modifications.<sup>3</sup>

**Permit Replacement.** Construction permits expire automatically if the permittee does not complete construction or justify tolling of the construction period.<sup>4</sup> The 2016 Permit expired automatically on June 3, 2019. DuPage's 2019 Application is not, as characterized by Metro, a request to extend the 2016 Permit but, rather, one for a new authorization to replace it. Metro's argument that DuPage has not justified its failure to construct by the existing deadline would be relevant to a tolling request but is inapplicable to the 2019 Application for a new, *i.e.*, replacement permit. Metro is also incorrect in its belief that a former permittee may not reapply for the same facilities after permit expiration. No rule prohibits replacement applications and the Bureau routinely accepts them.<sup>5</sup> An applicant seeking to replace an expired permit pays a new filing fee, must comply with any timing requirements, and is subject to potential competition from any conflicting, timely-filed modification applications.

Metro contends that the 2019 Application unfairly precludes applications to improve other radio stations. We disagree. Following expiration of the 2016 Permit, any licensee of an existing station, including Metro and DuPage, could have applied for a minor facilities change without protecting the expired permit. The Rules provide for consideration of such applications on a first-come, first-served basis.<sup>6</sup> DuPage availed itself of this opportunity by submitting the 2019 Application. Metro did not file any application. Had Metro filed a minor modification application on the same date as DuPage, the Bureau would have determined whether the two were mutually exclusive and, if so, have required them to use engineering solutions and good faith negotiation to resolve the mutual exclusivity.

**Engineering Data.** In its Reply, Metro asserts that DuPage's 2019 Application, "is a fraudulent or 'sham' application,"<sup>7</sup> because the 2019 Application submits the same ground conductivity data as accepted by the Bureau in granting the 2016 Permit. Metro contends that submitting that data, "ignores the fact, that in the past three years, there has been significant industrial, commercial and even some residential building within a two-mile radius of the WCKG(AM) tower site."<sup>8</sup>

Metro, however, fails to submit any data to substantiate that the claimed development has in fact rendered the data defective. An anecdotal account of measurements made by Metro President Mark Heller in 2016 gives no data to support the conclusion that WCKG "was intentionally under powered, or

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<sup>3</sup> See *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212, 14220, para. 12 (2006); See also 47 CFR §§ 73.3580(a)(1), 73.3584(a), 73.3587.

<sup>4</sup> 47 CFR § 73.3598(e). The Commission will toll the broadcast construction period for specific circumstances delineated in the Rules and will waive the construction deadline upon a showing of "rare and exceptional circumstances" of a similar magnitude. See 47 CFR § 73.3598(b); *Streamlining of Mass Media Applications*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17541 (1999) (*Streamlining*). As Metro correctly states, filing of a modification application does not extend a construction permit. Objection at 2, citing 47 CFR § 73.3533(b).

<sup>5</sup> See, e.g., *Robert P. Sanborn, III*, Letter Order, 30 FCC Rcd 38, 40 (MB 2015); *Board of Trustees of Eastern Mennonite University*, Letter Order, 29 FCC Rcd 5925, 5928 (MB 2014).

<sup>6</sup> See 47 CFR § 73.3571(f).

<sup>7</sup> Metro Reply at 3.

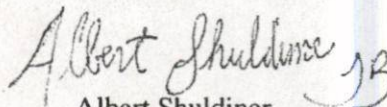
<sup>8</sup> *Id.*



its ground conductivity or ground system had significantly changed.”<sup>9</sup> Metro states that, “metal roofed buildings that would clearly change the measurements that were submitted by DuPage Radio as ‘true, complete ...and made in good faith’, but using ancient, out-of-date, out-of-touch 2014 measurements... (need) to be corrected, or thrown out as wrong.”<sup>10</sup> Anecdotal views, unsupported by a factual analysis, are insufficient to show that DuPage’s data lost its validity.

**Conclusion.** Accordingly, IT IS ORDERED That the application of DuPage Radio, LLC for a permit to modify the facilities of WCKG(AM) (File No. BP-20190604AAV) IS GRANTED and that the Petition to Deny of Metro North Communications, Inc., when considered as an Informal Objection, IS DENIED.

Sincerely,

A handwritten signature in cursive script that reads "Albert Shuldiner" followed by a stylized monogram "JB".

Albert Shuldiner  
Chief, Audio Division  
Media Bureau

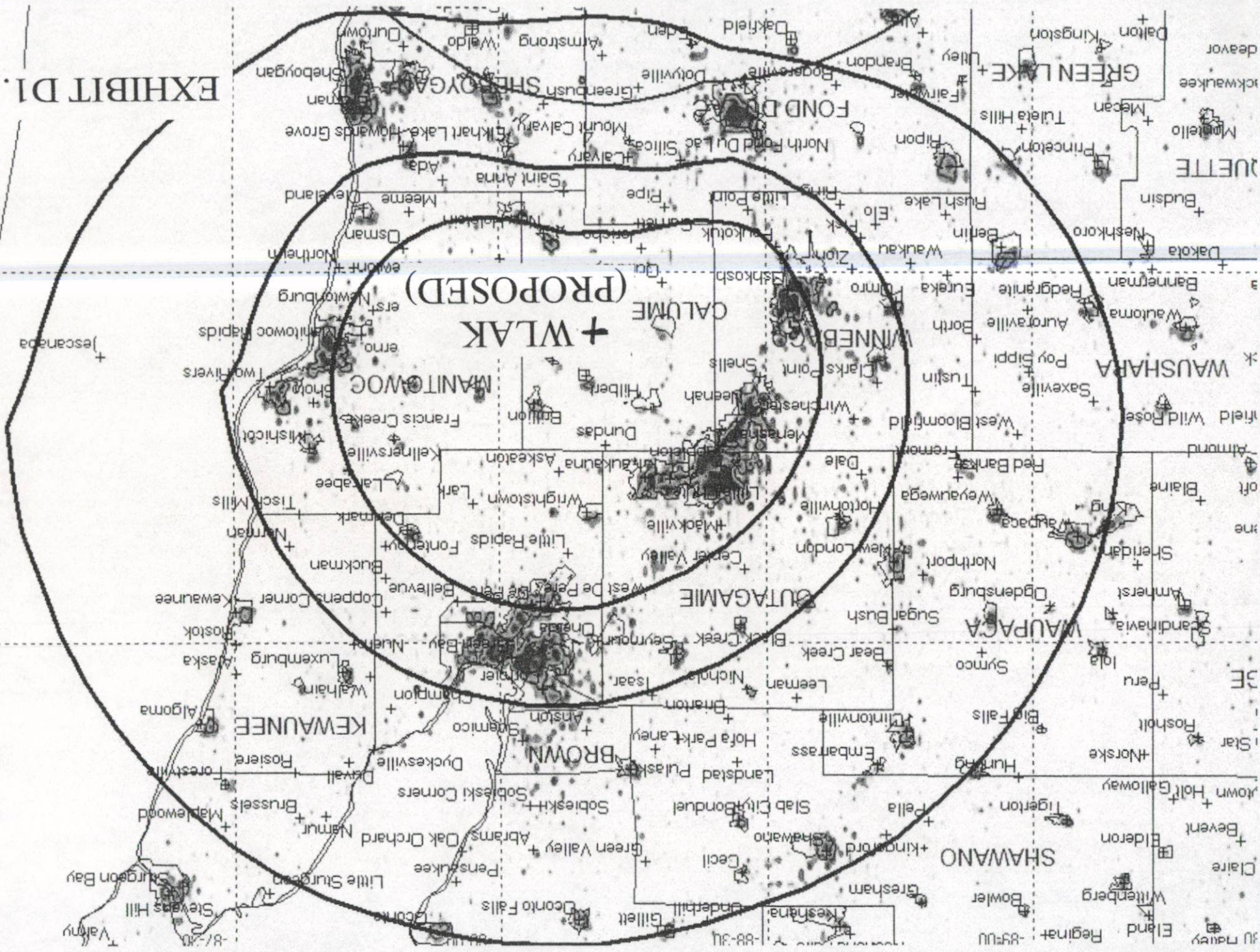
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<sup>9</sup> *Id.* at 2.

<sup>10</sup> *Id.* at 4.



EXHIBIT D1.









**CERTIFICATE OF SERVICE**

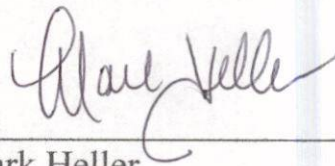
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Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

(Original and four copies)

Mr. Michael Crute  
New WRRD LLC  
7704 Terrace Avenue #1  
Middleton, WI 53562

Atty. John F. Garziglia  
1200 19<sup>th</sup> Street NW #500  
Washington, DC 20036

A handwritten signature in cursive script, appearing to read "Mark Heller", written over a horizontal line.

Mark Heller